



Legislative Policy to Exclude Certain Uncovered Front Steps and Stoops from the Definition of “Structures” for the Purposes of the Covenant Compliance as required by Sections 8-11(b)(3) and 8-11(c)(3) of the Village Code for Special Permit and Variance Requests

RECITALS

1. Chevy Chase Village is an incorporated municipality established pursuant to Article XI-E of the Maryland Constitution.
2. Article 23A, Section 2(a) of the Maryland Code, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to pass ordinances that such legislative body deems necessary to assure the good government of the municipality, to protect and preserve the municipality's rights, property and privileges, to preserve peace and good order, and to secure persons and property from danger and destruction, and to protect the health, comfort and convenience of the citizens of the municipality.
3. Section 77-14 of the Chevy Chase Village Charter authorizes the Chevy Chase Village Board of Managers to pass ordinances as it may deem necessary for the health, safety or welfare of Chevy Chase Village; for the protection and preservation of Chevy Chase Village property, rights and privileges; for the preservation of peace and good order and for securing persons and property from violence, danger and destruction; and for the suppression and abatement of nuisances.
4. Article 28, Section 8.115.1 of the Maryland Code authorizes municipal corporations in Montgomery County, such as Chevy Chase Village, to regulate the construction, repair, erection or remodeling of buildings or other structures.

5. Chevy Chase Village possesses a special character which includes, but is not limited to, open vistas along streets and sidewalks.
6. Section 8-11(b)(3) of the Village Code requires a finding that “For all special permits, except for special permits authorized by Sections 8-22, 8-26 or Article IV of this Chapter, the structure authorized by the proposed special permit would not violate any covenant applicable to the property.”
7. Section 8-11(c)(3) of the Village Code requires a finding that “For all variances, except for variances from the requirements of Sections 8-22, 8-26 or Article IV of this Chapter, the structure authorized by the proposed variance would not violate any covenant applicable to the property.”
8. The Board has found numerous properties where uncovered steps and stoops, which are necessary to address the change in elevation from the ground to the entrance of a house, encroach into the standard twenty-five (25) foot front setback required by the covenants applicable to most properties.
9. Although the Board has in the past interpreted the term “structure”, as used in the covenants imposed by the Chevy Chase Land Company, to include stoops, the Board finds that either: a) the covenant authors did not intend uncovered steps and stoops, which are necessary to address the change in elevation from the ground to the entrance of a house, to be deemed structures for the purposes of the twenty-five (25) foot front setback for properties in Section 2 of the Village; or b) that the numerous uncovered steps and stoops which encroach into the twenty-five (25) foot

setback would render the twenty-five (25) foot setback difficult to enforce for most blocks in Section 2.

10. The Board finds that, for determining covenant compliance under Sections 8-11(b) and (c), uncovered steps and stoops that are installed as a matter of necessity to address the change in elevation from the ground to the front entrance of a house, which steps and stoops are the minimum necessary to provide reasonable access, should not be deemed "structures."
11. All steps and stoops should continue to be deemed structures for the purposes of the setback requirements in Section 8-17 of the Village Code.

Now, therefore, on this ____ day of _____, 2011, the Chevy Chase Village Board of Managers, acting under and by virtue of the authority given it by the Act of Legislature approved March 28, 1951, and Acts subsequent thereto, Article 23A of the Maryland Code, and the Chevy Chase Village Charter that:

1. Recitals. The recitals set forth above are incorporated in this Policy as the findings of the Board of Managers.
2. Policy. For the purpose of determining covenant compliance under Village Code Sections 8-11(b)(3) and 8-11(c)(3), uncovered steps and stoops which are necessary to address the change in elevation from the ground to the front entrance of a house, shall not be considered "structures."
3. All steps and stoops shall continue to be deemed structures for the purposes of the setback requirements in Section 8-17 of the Village Code.

4. Term. This policy shall become effective immediately upon its passage and shall remain in effect until repealed by the Board of Managers.

David L. Winstead, Chairman
Chevy Chase Village Board of Managers

ATTEST:

Peter M. Yeo, Secretary

DATED: _____